

REMARKS

Status of the Claims.

Claims 1, 27-37, 41-49, and 123-186 are pending with entry of this amendment, claims 2-26, 38-40, 50-122, 187-191 being previously cancelled and no claims being added herein. Claims 1, 32, 35, 141, and 169 are amended herein. These amendments introduce no new matter. Support is replete throughout the specification (*e.g.*, in the claims as originally filed).

Sequence Listing Rules.

The Examiner indicated that the application is not in compliance with sequence rules, 37 C.F.R. §§ 1.821-1.825 because the Sequence Listing filed "October 7, 2005" [actually filed October 5, 2005, see Certificate of Mailing], allegedly was not accompanied by a statement of no new matter as required by 37 C.F.R. § 1.825(a) and (b).

With respect to the Sequence Listing filed on October 5, 2005, Applicants note the following: The information contained in the computer readable form (floppy disk) filed on October 5, 2005 was prepared through the use of the software program "PatentIn" and is identical to that of the paper copy filed therewith.

The sequence listing and the amendment filed on October 5, 2005 contains no new matter. The amendments to the specification and/or claims provide a formal sequence listing and/or provide appropriate cross-references to SEQ ID Numbers in accordance with 37 C.F.R. §§ 1.821 to 1.825. The sequence information provided therein finds support in the specification as originally filed.

35 U.S.C. §112, First Paragraph.

Claims 1, 28, 29, 31-37, 42-48, and 123-186 were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. In particular the Examiner alleged that independent claim 1 permits both X² and X³ to be Asp and/or Glu simultaneously, and permits both X² and X³ to be Arg simultaneously, while the original disclosure required that if X² was acidic then X³ had to be other than acidic and if X² was basic then X³ had to be other than basic.

Claim 1 is amended here so that it recites:

. . . X² and X³ are independently selected from the group consisting of Asp, Arg, and Glu, wherein when X² is an acidic amino acid; X³ is a basic amino acid, and when X² is a basic amino acid X³ is an acidic amino acid; . . .

thereby obviating this rejection. Accordingly the rejection under 35 U.S.C. §112, first paragraph, on these grounds should be withdrawn.

35 U.S.C. §112, Second Paragraph.

Claims 32, 35, 141-150, and 169 were rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite as described below:

Claim 32, line 3 and claim 35, line 3, were allegedly unclear as to whether methyl, ethyl, propyl, butyl, pentyl, and hexyl are all types of ester protecting groups or whether "ester" is only modified by "hexyl" from the preceding list of alkyl groups. Claims 32 and 35 are amended to expressly recite ". . . a methyl ester, a propyl ester, a butyl ester, a pentyl ester, . . ." thereby obviating this rejection.

There was allegedly no antecedent basis for the recitation of "said mammal" at claim 141, line 2. Claim 141 is amended herein to recite "[a] method of mitigating one or more symptoms of an inflammatory pathology in a mammal, . . ." thereby providing appropriate antecedent basis and obviating this rejection.

There was allegedly no antecedent basis for the recitation of "said composition" in claim 169. Claim 169 is amended herein to recite ". . . wherein said administering comprises orally administering said composition one or more peptides." thereby providing appropriate antecedent basis and obviating this rejection.

Objections to the claims.

Claims 141-150 were objected to because at claim 141, line 3, the phrase "one or more of" should allegedly be inserted before "the peptide" so that it is clear that not all of the peptides have to be administered simultaneously. Claim 141 is amended herein so that it recites ". . . an effective amount of one or more of the peptides of claims 1, 27, 28, 29, and 41." thereby obviating this rejection.

Allowable subject matter.

Applicants note with appreciation the Examiner's indication that claims 27, 30, 41, and 49 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In the instant case, however, Applicants believe the amendments described above put the remaining claims in condition for allowance. Accordingly claims 27, 30, 41, and 49 are not rewritten at this time.

In view of the foregoing, Applicants believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. Should the Examiner seek to maintain the rejections, Applicants request a telephone interview with the Examiner and the Examiner's supervisor.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (510) 769-3513.

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Respectfully submitted,


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